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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,665	02/19/2004	Joel Grossman	35380-000105/US/COC	1989
30593	7590	11/15/2005	EXAMINER	
HARNES, DICKEY & PIERCE, P.L.C.			BRYANT, DAVID P	
P.O. BOX 8910			ART UNIT	
RESTON, VA 20195			PAPER NUMBER	

3726

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/780,665	Applicant(s) GROSSMAN ET AL.	
	Examiner David P. Bryant	Art Unit 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-14, 16 and 19 is/are rejected.
7) ☒ Claim(s) 15, 17, 18, and 20 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 18, 2005, has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14, 16, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Dougher et al. (U.S. Patent No. 4,692,952).

Claim 1: In Figures 1-4, Dougher et al. teach a method of performing drop-in assembly, comprising:

providing a first futon frame component **11** with an open track **31** (Figure 4);

providing a second futon frame component **12** including at least one protrusion **42/43**

protruding outside a boundary defined by the second futon frame component (the ends of slats **42**

and **43** are “protrusions” since they protrude from the boundary of the second futon frame component defined by end support rails **35**); and

setting the second futon frame component **12** onto the open track **31** of the first futon frame component **11** such that the at least one protrusion **42/43** rests on the open track **31** (in the futon configuration shown in Figures 1 and 2, protrusion **43** is dropped within the lower portion **25** of the open track **31**; in the futon configuration shown in Figure 4, protrusion **42** is dropped onto upper portion **22** of the open track **31**).

Claim 2: Figure 4 shows that the open track is open in a direction of the drop-in.

Claim 3: Figure 4 shows the protrusion **42** being dropped into a resting position on top **22** of the open track **31**.

Claim 4: Figure 4 shows that a top of the open track is exposed to allow the protrusion **42** to be placed thereon.

Claims 5 and 6: Figure 4 shows the protrusion **42** being placed on top of the open track **31**.

Claim 7: As best shown in Figure 4, the open track **31** includes a body with at least two positions (i.e. top position **22** and bottom position **25**), the body including at least a nose portion **27**, a slanted portion **26**, and a horizontal portion **22**.

Claim 8: In Figures 1-4, Dougher et al. teach a method of performing drop-in assembly, comprising:

providing a first futon frame component **11** with an open track **31** (Figure 4), including a body with at least two positions (i.e. top position **22** and bottom position **25**);

providing a second futon frame component **12** including at least one protrusion **42/43** protruding outside a boundary defined by the second futon frame component (the ends of slats **42**

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and **43** are “protrusions” since they protrude from the boundary of the second futon frame component defined by end support rails **35**); and

moving the second futon frame component **12** such that the at least one protrusion **42/43** rests on the track **31** in a position where the second futon frame component **12** is in a stable position (in the stable futon position shown in Figures 1 and 2, protrusion **43** is dropped within the lower portion **25** of the open track **31**; in the stable futon position shown in Figure 4, protrusion **42** is dropped onto upper portion **22** of the open track **31**).

Claim 9: Figure 4 shows that the open track is open in a direction of the drop-in.

Claim 10: Figure 4 shows the protrusion **42** being dropped into a resting position on top **22** of the open track **31**.

Claim 11: Figure 4 shows that a top of the open track is exposed to allow the protrusion **42** to be placed thereon.

Claims 12 and 13: Figure 4 shows the protrusion **42** being placed on top of the open track **31**.

Claim 14: As best shown in Figure 4, the open track **31** includes a body with at least two positions (i.e. top position **22** and bottom position **25**), the body including at least a nose portion **27**, a slanted portion **26**, and a horizontal portion **22**.

Claims 16 and 19: Figures 2 and 3 clearly show the side rails **35** of the second futon frame component **12** being inside the boundary **18** defined by the first futon frame component **11**.

Allowable Subject Matter

Claims 15, 17, 18, and 20 are objected to as being dependent upon a rejected base claim,

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but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed August 18, 2005, have been fully considered but they are not persuasive.

Applicant argues that the protrusions **42** and **43** of Dougher et al. do not protrude outside a boundary defined by the futon back **12**. To the contrary, the boundary of the back **12** is defined by the end support members **35** thereof, with the ends of slats **42** and **43** protruding therefrom. This is precisely the arrangement of applicant's protrusions **34** and **35** with respect to the futon frame component **30** depicted in Figures 5 and 10 of the drawings. Therefore, the ends of slats **42** and **43** of Dougher et al. meet the limitation of "protrusions" that "protrude outside a boundary defined by the second futon frame component" as claimed.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David P. Bryant whose telephone number is 571-272-4526. The examiner can normally be reached on Monday-Thursday (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Jimenez, can be reached on 571-272-4530. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "David Bryant", with a stylized flourish at the end.

David P. Bryant
Primary Examiner
Art Unit 3726

dpb
11/9/05